This court has held in *Watson v. Ferrell*, 34 W. Va. 406, and in *Becher v. McGraw*, 48 W. Va. 539, that controversy as to title excludes the jurisdiction of a court of equity to enjoin trespass to real estate. The majority opinion, by the present decision, recognizes the modern practice. Pending the litigation of an estate at law, equity may issue an injunction to prevent waste. *Griffith v. Hilliard*, 69 Vt. 643; *Erhardt v. Boaro et al.*, 113 U. S. 537; *Fulton v. Harman*, 44 Md. 521; *Duvall v. Waters*, 18 Am. Dec. 350.

EVIDENCE—ADMISSIONS OF DEVISEES.—DENNIS V. NEAL ET AL., 71 S. W. 387 (TEX.).—In proceedings for the probate of a will contested on the ground of undue influence, *held*, to be error to admit evidence of admission of one of several devisees, tending to show such influence.

This case holds according to the decided weight of authority. 9 *Am. & Eng. Enc. Law* 343. The decisions are based on the principle that there is merely a common interest among devisees and in order that an admission of one may be used against another there must be a joint interest. 3 *Starkie, Ev.* 1708. There are, however, decisions to the contrary. *Beall v. Cunningham*, 1 B. Mon. 399.

INSURANCE—ACCIDENT—CONSTRUCTION OF POLICY.—RORICK V. RAILWAY OFFICIALS AND EMPLOYEES' ACC. ASS'N, 119 FED. 63.—A policy insuring only "against physical, bodily injury resulting in disability or death," provided that notice of such accident should be sent "within fifteen days from the date of the accident causing the disability or death." Plaintiff's husband struck his head against a projection in a car, but thinking the injury trivial he continued to work for six days. He then became insane and died on the seventh day, an autopsy showing that the blow was the sole cause of death. Notice was given to the insurers within fifteen days from the disability but not from the blow. *Held*, that the condition of the policy was satisfied. Gilbert, Circuit J., *dissenting*.

The courts are not inclined to place a narrow and technical construction upon insurance policies but favor the insured. *McNally v. Phoenix Ins. Co.*, 137 N. Y. 389. In *Tripp v. Provident Fund Society*, 140 N. Y. 23, notice within ten days of the finding of the assured's body buried in a fallen building, fulfilled the requirement of notice within ten days from date of the accident.

INSURANCE—FIRE—BLANKET AND SPECIFIC POLICIES—PRORATING LOSS.—SCHMAELZLE V. LONDON AND L. FIRE INS. CO., 53 ATL. 863 (CONN.).—Property consisting of several items was insured by several policies, some blanket and some specific, each policy providing, "This company shall not be liable under this policy for a greater proportion of any loss on the described property, than the amount hereby insured shall bear to the whole insurance." *Held*, that for the purpose of determining the proportional liability of the blanket and specific policies, on the first item the full amount of blanket insurance is to be considered, on the second item such amount less its liability on the first item, and so on.

The existence of the specific policies makes necessary a construction of the prorating clause, to determine what shall be considered the "whole insurance" on each item. Where no question of apportionment arises, the whole amount insured by a blanket policy attaches to each item thereunder. 3 *Joyce, Ins.* 2456. Yet the weight of authority has held, where there was specific as well as blanket insurance, that the "whole insurance" on any item

should be determined by apportioning the amount of the blanket policies among the various items. *Blake v. Ins. Co.*, 12 Gray *272*; *Lesure Lumber Co. v. Mut. Fire Ins. Co.*, 101 Iowa 514; *Mayer v. Am. Ins. Co.*, *22* N. Y. Supp. *227*. These decisions, however, are but slightly supported by argument, and the carefully reasoned solution adopted in the present case seems a much more logical method of fixing the liability in accordance with the contract obligations of a blanket policy. The single similar decision did not go so far, holding only that blanket policies cover property specifically insured, to their full amount, "where there is no other property, described in the compound policies, which has suffered loss." *Page v. Ins. Co.*, 74 Fed. 203, 33 L. R. A. 249.

INSURANCE—TRANSFER OF TITLE—CONDITION.—ROSENSTEIN V. TRADERS INS. CO. OF CHICAGO, 79 N. Y. SUPP. 736.—Certain premises covered by an insurance policy were conveyed by the plaintiff to his son by a deed which the plaintiff recorded and in which a consideration was recited. No consideration was, in fact, paid nor was there any change in possession, the deed having been made for the sole purpose of preventing the enforcement of a judgment against the land. *Held*, that this constituted such a change in "interest, title, or possession" as to avoid the policy. McLennan and Spring, JJ., *dissenting*.

It has been held that a change in fact and not mere evidence of change is necessary; *Ayres v. Hartford L. Ins. Co.*, 17 Ia. 176; and that there must be an actual change of possession in the case of personalty. *Forward v. Ins. Co.*, 142 N. Y. 382. A mere agreement to represent to creditors that a sale has been made will not avoid the policy, *Orrell v. Hampden F. Ins. Co.*, 13 Gray 431. The minority's contention that in the absence of intention to pass title by deed none will pass, is well supported by the decisions; *Ten Eyke v. Whitbeck*, 156 N. Y. 341; *Steel v. Miller*, 40 Ia. 402; *Stevens v. Hatch*, 6 Minn. 64; and it would seem that no such intention as a matter of law appears. Opinon of McLennan, J., p. 742.

INTERSTATE COMMERCE—ORIGINAL PACKAGES—CIGARETTES.—COOK V. MARSHALL COUNTY, 93 N. W. 372 (IA.).—A large number of small boxes of cigarettes, absolutely loose, were shipped into the State in violation of the State law. *Held*, each box will not be considered an "original package."

It was contended that this case should be distinguished from *Austin v. Tennessee*, 179 U. S. 343, because of the mode of shipping. In that case the packages were shipped in an open basket furnished by the express company, and, following *In re Harmon*, 43 Fed. 372, that a package need not be covered or closed in order to constitute an original package, it was held that the basket constituted the "original package." In the present instance the packages were piled in a loose heap and the carrier was told to take a certain number; but the court refused to distinguish the cases. In *Iowa v. McGregor*, 76 Fed. 956, it was held that the State cannot prohibit the importation of cigarettes in small boxes. See also *Sawrie v. Tennessee*, 82 Fed. 615. The position taken here, however, seems more reasonable and just, and will probably prevail.

INTOXICATING LIQUORS—CIVIL DAMAGE—LIABILITY.—STAHNKA ET AL. V. KREITLE, 92 N. W. 1042 (NEB.).—Under a statute declaring that one licensed